

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DWAIN MITCHELL,

Plaintiff,

-v-

NEW YORK CITY DEPARTMENT OF EDUCATION, et al.,
Defendants.

CIVIL ACTION NO.: 20 Civ. 1555 (PGG) (SLC)

**SCHEDULING ORDER AND AMENDED ORDER OF
SERVICE**

SARAH L. CAVE, United States Magistrate Judge.

Pro se Plaintiff's Letter-Motion (ECF No. 19) for a three-week extension of time to respond to Defendant's Motion to Dismiss (ECF No. 13) is GRANTED. Plaintiff's response must be filed by **Friday, October 30, 2020**. Defendant's reply, if any, must be filed by **Friday, November 6, 2020**.

Plaintiff requests by separate filing that the Court issue a new summons to Defendants Daisy Fontanez and the New York City Department of Education ("DOE"). (ECF No. 18). Plaintiff's request is GRANTED IN PART AND DENIED IN PART. Defendant DOE has been served, an acknowledgement of receipt of the summons and complaint was executed May 26, 2020 (ECF No. 9 at 3) and defense counsel appeared on behalf of Defendant DOE (ECF No. 10). Accordingly, Plaintiff's application is DENIED as to Defendant DOE.

On the other hand, there is no indication in the Court's record that Defendant Fontanez has been served. Defendant Fontanez has not appeared in this action and the address for Defendant Fontanez in the original Order of Service (ECF No. 5) differs from the newly-provided address for her, which Plaintiff states is her "correct address." (See ECF No. 18). Plaintiff's application for the Court to issue a summons to Defendant Fontanez at the updated address is GRANTED.

Plaintiff has been granted permission to proceed in forma pauperis (ECF No. 3) and the Court previously held that he is entitled to rely on the Court and the U.S. Marshals Service to effect service. (ECF No. 5) (District Judge Paul G. Gardephe's Order of Service)). Plaintiff's deadline to serve Defendant Fontanez is therefore EXTENDED until 90 days after the date the summons is issued. See Fed. R. Civ. P. 4(m).

To allow Plaintiff to effect service on Defendant Fontanez through the U.S. Marshals Service, the Clerk of Court is respectfully directed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for Defendant Fontanez. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendant Fontanez.

Finally, the Clerk of Court is respectfully directed to mail a copy of this order to Plaintiff at the address below.

Dated: New York, New York
October 8, 2020

SO ORDERED


SARAH L. CAVE
United States Magistrate Judge

Mail to: Dwain Mitchell
4 East 107th Street
Apt. 17B
New York, New York 10029

DEFENDANT AND (UPDATED) SERVICE ADDRESS

Daisy Fontanez
3965 Sedgwick Avenue
Bronx, New York 10463